

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LAWRENCE JOHNSON, III	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-20-1077-F
	)	
WILLIAM MICHAEL FITZGERALD, a	)	
resident of Minnesota,	)	
and TRANSIT TEC, INC., a domestic	)	
for profit company registered in the	)	
State of Minnesota	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C.A. §1446(a), Defendants William Michael Fitzgerald and Transit Tec, Inc. file this Notice of Removal and shows the Court as follows:

- 1) Defendants William Michael Fitzgerald and Transit Tec, Inc. are named in the state court action styled *Lawrence Johnson III v. William Michael Fitzgerald, et al.*, Case No. CJ-20-129, pending in the District Court in and for McClain County, Oklahoma.
- 2) Plaintiff filed the present action on August 28, 2020.
- 3) Plaintiff obtained service upon Defendant William Michael Fitzgerald on or about September 28, 2018.
- 4) Plaintiff obtained service upon Defendant Transit Tec, Inc. on or about September 24, 2018.

- 5) At the time of filing and presently, Plaintiff is a Texas resident and domiciled as such.
- 6) Defendant William Michael Fitzgerald is a Minnesota resident and domiciled as such.
- 7) Defendant Transit Tec, Inc. is a company duly organized and existing under the laws of the State of Minnesota with its principal place of business in St. Cloud, Minnesota. (See Affidavit of Kim Kenning, attached hereto as **Exhibit “1”**).
- 8) Plaintiff is a citizen of the State of Texas and the Defendants are not a citizen of Texas or a citizen of the same state. Therefore, there is complete diversity of citizenship in this action.
- 9) Plaintiff’s Petition seeks a monetary award “in excess of the amount required for diversity jurisdiction pursuant to 28 U.S.C § 1332....” (See Plaintiff’s Petition, at Page 4, attached hereto as **Exhibit “2”**). Based upon Plaintiff’s allegation related to its claimed damages, the amount in controversy exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interests and costs.
- 10) Since there is complete diversity between the parties and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), this is a civil action over this Court has original jurisdiction, pursuant to 28 U.S.C. § 1332.
- 11) Removal of this case to this Court is proper under 28 U.S.C. §1441

because this is a civil action of which the District Courts of the United States have original jurisdiction.

- 12) This Notice of Removal is timely filed within thirty (30) days of Defendants' receipt of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. See 28 U.S.C. §1446(b)(1).
- 13) In accordance with 28 U.S.C. §1446(a) and LCvR 81.2(a), Defendants file herewith the following:
  - a) Copies of all process, pleadings, and orders filed in the state court action as of this date (see Plaintiff's Petition, at **Ex. "2"**; Summons issued to Defendant William Fitzgerald at **Exhibit "3"**; Summons issued to Defendant Transit Tec at **Exhibit "4"**; and Plaintiff's Dismissal without Prejudice of Defendant Western National Mutual Insurance Co. at **Exhibit "5"**; Entry of Appearance for Counsel for Defendants at **Exhibit "6"**; and Defendants' Answer to Plaintiff's Petition at **Exhibit "7"**); and
  - b) Copy of the District Court of McClain County's Docket Sheet, attached hereto as **Exhibit "8"**.
- 14) Promptly after the filing of this Notice of Removal, Defendants shall give written notice of the removal to Plaintiff through its attorney of record and to the clerk of the state court, as required by 28 U.S.C. §1446(d).

WHEREFORE, Defendants William Michael Fitzgerald and Transit Tec, Inc. respectfully request that this action now pending in the District Court of McClain County, Oklahoma be removed to the United States District Court for the Western District of Oklahoma, as an action properly removed thereto, and seeks general relief.

Respectfully submitted,

/s/Matthew J.G. McDevitt  
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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

This is to certify that on this 22<sup>nd</sup> day of October, 2020, a true and correct copy of the above and foregoing document was mailed, via U.S. Mail and with postage prepaid thereon, to the following counsel of record:

Andrew D. Schwartz  
James E. Dunn  
JAMES DUNN & ASSOCIATES  
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Oklahoma City, OK 73103

*Attorneys for Plaintiff*

/s/Matthew J.G. McDevitt  
Matthew J.G. McDevitt